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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 Justin Robert Escalera,
10 Plaintiff,

No. CV-19-04934-PHX-MTL (JFM)

11 v.

ORDER

12 Corizon Health Incorporated, et al.,
13 Defendants.

14
15 Plaintiff filed this 42 U.S.C. § 1983 civil rights action alleging deliberate
16 indifference to his serious medical needs. He filed a Motion for Preliminary Injunction
17 with his Complaint seeking a Bi-PAP machine to treat his obstructive sleep apnea (Doc. 2
18 at 13). In his reply, however, Plaintiff confirms that he received the Bi-PAP machine in
19 November 2019 (Doc. 13 at 10). His request for injunctive relief is therefore moot.
20 *Shabazz v. Giurbino*, 2017 WL 2671082, *12 (E.D. Cal. June 21, 2017) (finding request
21 for injunctive relief moot where the plaintiff received a form of the relief he requested).

22 To the extent that Plaintiff maintains he is entitled to damages because of the
23 suffering he experienced by the delay in receiving the mask, that is beyond the scope of
24 his preliminary injunctive relief request and will be addressed when the Court considers
25 the merits of his claims.¹

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28¹ Plaintiff also claims that he must receive a device to clean his Bi-Pap machine (Doc. 15
at 13-14). But the Court will not consider that at this time because it was not part of
Plaintiff's original motion for injunctive relief and there is no basis to conclude at this
time that he will suffer imminent, irreparable injury without a cleaning device.

1 **IT IS THEREFORE ORDERED** that Plaintiff's Motion for Preliminary
2 Injunction (Doc. 2) is **denied as moot**.

3 Dated this 9th day of March, 2020.

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5 Michael T. Liburdi
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7 Michael T. Liburdi
8 United States District Judge